

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEON CRAWFORD, #691535,

Petitioner,

v.

CASE NO. 2:14-CV-13499
HONORABLE GERSHWIN A. DRAIN

JEFFREY WOODS,

Respondent.

**ORDER DENYING PETITIONER'S MOTION
TO REMAND TO REOPEN HIS APPEAL OF RIGHT**

This is a habeas case brought pursuant to 28 U.S.C. § 2254. Michigan prisoner Deon Crawford ("Petitioner") was convicted of second-degree murder, MICH. COMP. LAWS § 750.317, felonious assault, MICH. COMP. LAWS § 750.82, felon in possession of a firearm, MICH. COMP. LAWS § 750.224f, and possession of a firearm during the commission of a felony, MICH. COMP. LAWS § 750.227b, following a jury trial in the Wayne County Circuit Court in 2012. He was sentenced to 25 to 50 years imprisonment on the murder conviction, time served on the felonious assault and felon in possession convictions, and a consecutive term of five years imprisonment (reduced to two years imprisonment on appeal) on the felony firearm conviction. The case is currently stayed and administratively closed to allow Petitioner to return to state court to exhaust additional issues concerning the effectiveness of trial and appellate counsel. The matter is now before the Court on Petitioner's motion to remand the case to re-open his appeal of right in state court.

Petitioner's motion must be denied. The provisions cited by Petitioner in support of

his motion are inapplicable to the case at hand. Title 28 U.S.C. §§1447(c) and (d) apply to removal actions and this is not a removal action. Title 28 U.S.C. § 636(b)(1)(A) applies to referral to a federal magistrate judge to hear and determine pretrial matters in cases pending before the district court. This Court does not have the authority at this stage of the proceedings to order the Michigan Court of Appeals to re-open his appeal of right and bypass established procedures for presenting his additional issues to the state courts. Rather, Petitioner must follow Michigan law to properly and fully exhaust his additional issues by filing a motion for relief from judgment with the trial court pursuant to Michigan Court Rule 6.500 *et seq.* and then seek leave to appeal before the Michigan Court of Appeals and the Michigan Supreme Court as necessary. Accordingly, the Court **DENIES** Petitioner's motion to remand.

IT IS SO ORDERED.

s/Gershwin A Drain
GERSHWIN A. DRAIN
UNITED STATES DISTRICT JUDGE

Dated: December 30, 2014